



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall
Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – MAY 23, 2006

MID MONTH BOARD MEETING MINUTES¹

MAY 23, 2006

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

William Elkins, President
Sean Harrigan, Vice President
Maeley Tom, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A. The SPB's proposal for a new Examination & Certification System was part of the Governor's proposed budget and is now in both the Assembly and Senate's version of the budget. Chances of passage and signature are high. Much thanks go to Laura Aguilera, Karen Coffee, Mary Fernandez, and Sherry Evans for helping replace our 30-year old "legacy" system - a long sought dream of the SPB.
- B. CPS has had further financial difficulties and announced on May 17, 2006, thirty-four lay-offs and eleven demotions. Other cost-saving measures were also announced.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

Litigation:

- SEIU v. State - SEIU challenges a state statute that provides that contracts for printing services do not constitute personal services contracts. SPB attended the hearing. Judge Connelly has not rendered a decision.
- Turner v. State Personnel Board (Department of Transportation) - SPB received notice of entry of order denying petition for writ of mandate filed in Superior Court (Alameda County). The court upheld the Board's decision modifying a 30 days suspension of a Transportation Surveyor to a 10 days suspension for various performance issues and discourtesy.
- Luis A Valenzuela v. State Personnel Board (Department of Corrections and Rehabilitation) - SPB received notice of judgment granting petition for writ of mandate. The employee had been charged with testing positive for

¹ The Minutes for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

May 23, 2006

amphetamines in a random drug/alcohol test. The employee's defense was that he had taken "Mexican diet pills" and that although he had heard about the Department's previously issued memorandums warning employees that diet drugs from Mexico may contain methamphetamines, he had never seen the written memorandum. The SPB had adopted the decision of an administrative law judge finding that the ingestion of the pills "provided no excuse for the positive test result because prescription of amphetamines for routine weight loss programs is prohibited in the United States and appellant was on notice as to the danger of taking such prescriptions."

The superior court (Imperial County) held that the employee was not on "legally adequate notice" that a foreign prescription could result in testing positive for methamphetamines, and that the Department had not established that there was no legitimate medical use for the drug in question. The superior court ruled that the SPB could not assume that if a substance is scheduled or in any way controlled, it cannot have any legitimate medical use.

Rather than remanding the matter to the State Personnel Board as is required by law, the court vacated the Board's decision and ordered reinstatement with lost benefits and back pay.

SPB has received no information as to whether CDCR will appeal.

Other:

- Attended DPA Respondent's Roundtable
- Offer from DPA ALJ to hear SPB cases if SPB has conflict
- Unit 2 MOU has been ratified

4. NEW BUSINESS

NONE PRESENTED

5. REPORT ON LEGISLATION – Sherry Evans

Ms. Evans reported on the Board's sponsored legislation. It is currently on the Assembly Third Reading File. The Board will issue a Floor Alert seeking support.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

6. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 9–13)

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

AB 2903 (HUFF)

This bill would allow the Department of Motor Vehicles (DMV) to conduct examinations on a position-by-position basis for supervisory and managerial classes approved as appropriate by the State Personnel Board (SPB) and as currently being conducted under an agreed upon Demonstration Project between SPB and DMV.

POSITION: SUPPORT

AB 2945 (SPITZER)

This bill would include employees who are managers, supervisors or confidential employees in a forensic program in specific classifications or positions employed at the Department of Justice (DOJ) in state safety service retirement.

POSITION: NO POSITION

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

11. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF JUNE 6, 2006, IN SACRAMENTO, CALIFORNIA

NONE

BOARD ACTIONS:

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF MAY 2, 2006 (The May 2, 2006, Summary Minutes also included all Agenda Items for the Cancelled April 18, 2006, Board Meeting.).

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

13. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 9–15

14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 22–23)

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

15. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 16–19

16. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On May 23, 2006, the following proposals were presented to the Board by Karen Coffee, Chief, Merit Employment and Technical Resources Division, California State Personnel Board.

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

SENIOR VOCATIONAL REHABILITATION COUNSELOR, QUALIFIED REHABILITATION PROFESSIONAL

In order to meet the Federal Rehabilitation Services Administration's (RSA) requirements for providing vocational rehabilitation services to the disabled community, the Department of Rehabilitation (DOR) proposes the following: establishment of a new classification titled Senior Vocational Rehabilitation Counselor, Qualified Rehabilitation Professional, with a 12-month probationary period; the establishment of Alternative Range Criteria 443; to designate the classification of Senior Vocational Rehabilitation Counselor, Footnote 24, in order to prevent future appointments to this class and to abolish it when it becomes vacant; and to move incumbents in the class Senior Vocational Rehabilitation Counselor who meet the MQ's for the new classification Senior Vocational Rehabilitation, Qualified Rehabilitation Professional by board action.

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes.

Title	Class Code
Assistant Medi-Cal Field Office Administrator	7998
Chief Vector Control Section	0560
Chief, Food and Drug Field Operations Section	9027
Chief, Office of County Health Services	7668
Chief, Viral and Rickettsial Disease Laboratory Branch	7756
Regional Medical Coordinator	7745
Dental Health Consultant, Department of Health Services	7847
Chief Geologist State Lands Division	3767
Chief of Litigation, C.E.A.	5972
Communications and Warning Officer O.E.S.	8110
Chief Petroleum Engineer	3773
Chief Reservoir Engineer State Lands Division	3765

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

DEPUTY DIRECTOR, OPERATIONS

The Department of Technology Services proposes to allocate the above position to the CEA category. The Deputy Director, Operations is responsible for the development and implementation of high-level IT policy applicable to the Operations Division addressing IT systems and telecommunications operational support needs statewide as well as for the department.

ASSISTANT DEPUTY DIRECTOR, INFORMATION SERVICES DIVISION

The Department of Social Services proposes to reallocate the existing CEA allocation of Information Security Officer to the position of Assistant Deputy Director, Information Services Division. The Assistant Deputy Director, Information Services Division will be responsible for developing and implementing policies, standards, and procedures for the newly established Office of System Oversight.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

SPECIAL ASSISTANT, FINANCIAL SURVEILLANCE BRANCH

The Department of Insurance's proposal to allocate the above position to the CEA category has been disapproved effective April 28, 2006.

DIRECTOR, OFFICE OF PUBLIC AFFAIRS

The Department of Food and Agriculture has withdrawn their proposal to allocate the above position to the CEA category effective April 28, 2006.

DEPUTY DIRECTOR, FINANCE AND ADMINISTRATION, HIGH SPEED RAIL AUTHORITY

The California Highway Patrol's proposal to allocate the above position to the CEA category on behalf of the High Speed Rail Authority has been disapproved effective April 28, 2006.

DIRECTOR, CRIME AND VIOLENCE PREVENTION CENTER

The Department of Justice's proposal to allocate the above position to the CEA category has been approved effective April 25, 2006.

ACTION: NOTED

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

20. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

22. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 20–21

A D J O U R N M E N T

WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 13 – 15 AS NOTED.

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

(1) ALEJANDRO GILL, CASE NO. 05-0054RA

Appeal for dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected January 6, 2006.

Oral argument heard May 2, 2006, Los Angeles.

Case ready for decision by FULL Board

NO ACTION

(2) JUDY JOHNSON, CASE NO. 05-1367A

Appeal from automatic resignation

Classification: Motor Vehicle Field Representative

Department: Department of Motor Vehicles

Proposed decision rejected February 21, 2006.

Oral argument (written record) submitted May 2, 2006,
Los Angeles.

Case ready for decision by FULL Board.

NO ACTION

(3) RICK OCHOA, CASE NO. 04-2373BA

Appeal for determination of back salary, benefits and interest

Classification: Youth Correctional Officer

Department: Department of the Youth Authority

Proposed decision rejected January 24, 2006.

Oral argument heard April 4, 2006, Sacramento.

Case ready for decision by FULL Board

NO ACTION

- (4) **EDUARDO PEREZ, CASE NO. 05-0763A**
Appeal from five percent reduction in salary for six months
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 1, 2005.
Oral argument (written record) submitted May 2, 2006,
Los Angeles.
Case ready for decision by FULL Board.

NO ACTION

- (5) **ERNEST PITTMAN, CASE NO. 05-1591A**
Appeal from dismissal
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles

Proposed decision rejected December 6, 2005.
Oral argument heard March 8, 2006, Sacramento.
Case ready for decision by FULL Board.

NO ACTION

- (6) **RICHARD QUADRELLI, CASE NO. 05-1039A**
Appeal from dismissal
Classification: Caltrans Maintenance Supervisor
Department: Department of Transportation

Proposed decision rejected December 6, 2005.
Oral argument heard March 8, 2006, Sacramento.
Case ready for decision by FULL Board.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On May 23, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) JENNIFER EYNON, CASE NO. 05-1438**
Appeal from rejection during probation
Classification: Program Technician
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (2) KATHRYN HASSETT, CASE NO. 03-3379**
RICHARD READEL, CASE NO. 03-3623
Appeal from one-week suspension and demotion
Classification: Deputy Director and Social Services Program Administrator
Department: Merced County Human Services
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension and demotion.
- (3) JAMES JACKSON, CASE NO. 05-3017**
Appeal from 15 working days suspension
Classification: Officer
Department: California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (4) BRADLEY MCCANN, CASE NO. 06-0024**
Appeal from rejection during probation
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.

- (5) **BARBARA POWERS, CASE NO. 05-1181**
Appeal from ten percent reduction in salary for twelve pay periods
Classification: Personnel Specialist I
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision but modified the penalty to five percent reduction for twelve pay periods.
- (6) **MICHAEL ROSA, CASE NO. 06-0266**
Appeal from dismissal
Classification: Psychiatric Technician Assistant
Department: Department of Developmental Services
ACTION: The Board adopted the ALJ's Proposed Decision revoking the dismissal.
- (7) **IMAN SALLAM, CASE NO. 04-1741E**
Appeal from discrimination and retaliation complaint
Classification: Senior Transportation Engineer
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision dismissing the complaint.
- (8) **JONATHAN SILVERMAN, CASE NO. 05-0078**
Appeal from dismissal
Classification: Workers Compensation Payroll Auditor
Department: State Compensation Insurance Fund
ACTION: The Board rejected the ALJ's Proposed Decision sustaining the dismissal.
- (9) **MICHAEL P. ST. JACQUES, CASE NO. 05-3009**
Appeal from rejection during probation
Classification: Transportation Engineer (Civil)
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (10) **TIM TONSAGER, CASE NO. 05-4448**
Appeal from five percent reduction in salary for six months
Classification: Psychiatric Technician
Department: Department of Developmental Services
ACTION: The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.

May 23, 2006

(11) ALFONSO VARGAS, CASE NO. 05-2451

Appeal from formal reprimand

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision revoking the formal reprimand.

(12) SHINDANA C. WALKER, CASE NO. 05-4268

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

ACTION: The Board rejected and remanded the ALJ's Proposed Decision to specify evidentiary support for the credibility determination.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

(13) FRANCES LOPEZ, CASE NO. 04-0779RB

Appeal for determination of salary, benefits and interest

Classification: Motor Vehicle Field Representative

Department: Department of Motor Vehicles

ACTION: The Board adopted the ALJ's Proposed Decision granting the appeal.

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

NONE

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

May 23, 2006

- (1) **TROY ALLEN, CASE NO. 05-2150A**
Appeal from dismissal
Classification: Caltrans Equipment Operator II
Department: Department of Transportation

Proposed decision rejected February 7, 2006.
Pending oral argument originally set May 2, 2006, Los Angeles.
Pending oral argument June 6-7, 2006, Sacramento
NO ACTION
- (2) **DANNY BROWN, CASE NO. 05-2209A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected April 4, 2006.
Transcript prepared.
NO ACTION
- (3) **PRECILLA CALAUNAN, CASE NO. 05-1737RPA**
Appeal from dismissal
Classification: Psychiatric Technician Assistant
Department: Department of Developmental Services

Petition for Rehearing granted March 8, 2006.
Transcript prepared.
NO ACTION
- (4) **PAUL CHATHAM, CASE NO. 05-1287A**
SARAH WIRTH, CASE NO. 05-1599A
Appeal from five percent reduction in salary for six months and two work days suspension
Classification: Correctional Lieutenant and Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 2, 2006.
Pending transcript.
NO ACTION
- (5) **GAIL GARCIA, CASE NO. 05-3030A**
Appeal from constructive demotion
Classification: Office Technician
Department: Department of Developmental Services

Proposed decision rejected May 2, 2006.
Pending transcript.
NO ACTION

- (6) **RAYMOND GURULE, CASE NO. 05-1351A**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority

Proposed decision rejected April 4, 2006.
Transcript prepared.
NO ACTION
- (7) **LEE KENDRICK, CASE NO. 04-1620PA**
Appeal from dismissal
Classification: Transportation Surveyor
Department: Department of Transportation

Petition for Rehearing granted April 4, 2006.
Transcript prepared.
NO ACTION
- (8) **SHANE MEE, CASE NO. 04-2474PAA**
Appeal from dismissal
Classification: Caltrans Equipment Operator II
Department: Department of Transportation

ACTION: Petition for Rehearing granted May 2, 2006.
Resolved without further hearing.
- (9) **RAYMOND SLEDGE, CASE NO. 04-2809PA**
Appeal from dismissal
Classification: Youth Correctional Counselor
Department: Department of the Youth Authority

Petition for Rehearing granted March 8, 2006.
Transcript prepared.
NO ACTION
- (10) **JAMES STEED, CASE NO. 05-0207PA**
Appeal from constructive medical suspension
Classification: Facility Captain
Department: Department of Corrections and Rehabilitation

Petition for Rehearing granted March 8, 2006.
Transcript prepared.
NO ACTION

15. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On May 23, 2006, the Board adopted as indicated below the following items presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) EDUARDO BERGADO, CASE NO. 05-1610**
Classification: Medical Technical Assistant
Department: Department of Corrections and Rehabilitation
Issue: Suitability for peace officer position due to issues of fraud during the application process.
ACTION: DENIED
- (2) JUAN CARDENAS, CASE NO. 05-1497**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability for peace officer position due to drug use.
ACTION: DENIED
- (3) OGANES CHAMICHYAN, CASE NO. 05-1762**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information, furnished inaccurate information and a negative employment record.
ACTION: DENIED
- (4) DEREK CRENSHAW, CASE NO. 05-1815**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information, furnished inaccurate information and a negative employment record.
ACTION: DENIED

- (5) **OMAR CRUZ-GARCIA, CASE NO. 05-1761**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and omitted pertinent information.
ACTION: DENIED
- (6) **ISAAC CULLINAN, CASE NO. 05-1546**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and omitted pertinent information.
ACTION: DENIED
- (7) **LAVETTE FARLOW, CASE NO. 05-1436**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and omitted pertinent information.
ACTION: DENIED
- (8) **TERRILL GRANT, CASE NO. 05-1421**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and furnished inaccurate information.
ACTION: DENIED
- (9) **JESUS GUTIERREZ, CASE NO. 05-1809**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and omitted pertinent information.
ACTION: DENIED
- (10) **MUZAMIL KHAN, CASE NO. 05-0777**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability for peace officer position due to drug use within one year of his application date to the department.
ACTION: DENIED
- (11) **LUKE LARRAMENDY, CASE NO. 05-0775**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; Furnished inaccurate information during selection process; and recent negative law enforcement contact.
ACTION: DENIED

May 23, 2006

- (12) **BRIAN MISER, CASE NO. 05-1480**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability and omitted pertinent information.
ACTION: DENIED
- (13) **HEATHER POWELL, CASE NO. 05-1195**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and had a negative employment and driving record.
ACTION: DENIED
- (14) **KRISTOPHER WEST, 05-0280**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Appellant does not meet minimum education requirements for Correctional Officer classification.
ACTION: DENIED
- (15) **JEFFREY YEAGER, CASE NO. 05-1165**
Classification: Cadet, CHP
Department: California Highway Patrol
Issue: Suitability for peace officer position due to a demonstrated lack of judgment and integrity.
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

On May 23, 2006, the Board adopted as indicted below the following items presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **FERNANDO MAGANA, CASE NO. 05-1266**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: The appellant was medically disqualified because his visual acuity was not correctable to the visual acuity standard of 20/20 that would qualify him to safely perform the essential functions of a Correctional Officer.
ACTION: DENIED

- (2) **JUAN ELIAS, CASE NO. 05-1751**
Classification: Psychiatric Technician Trainee
Department: Department of Mental Health
Issue: Medical Withhold
ACTION: WITHDRAWN BY DEPARTMENT

C. **EXAMINATION APPEALS**
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE

D. **RULE 211 APPEALS**
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

NONE

E. **REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On May 23, 2006, the Board adopted as indicated below the following items presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **STEVE HALL, CASE NO. 05-3836**
Classification: Civilly Committed Patient at Patton State Hospital
Department: Department of Mental Health
Issue: The charging party requests to file charges against employee of the Patton State Hospital.
ACTION: DENIED

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. ERNEST PITTMAN, CASE NO. 05-1591A

Appeal from dismissal. Motor Vehicle Field Representative. Department of Motor Vehicles. (Oral argument held March 8, 2006.)

NO ACTION

7. RICHARD QUADRELLI, CASE NO. 05-1039A

Appeal from dismissal. Caltrans Maintenance Supervisor. Department of Transportation. (Oral argument held March 8, 2006.)

NO ACTION

8. RICK OCHOA, CASE NO. 04-2373B

Appeal for determination of back salary, benefits and interest. Youth Correctional Officer. Department of the Youth Authority. (Oral argument held April 4, 2006.)

NO ACTION

9. ALEJANDRO GILL, CASE NO. 05-0054RA

Appeal from dismissal. Correctional Officer. Department of Corrections and Rehabilitation. (Oral argument held May 2, 2006.)

NO ACTION

10. JUDY JOHNSON, CASE NO. 05-1367A

Appeal from automatic resignation. Motor Vehicle Field Representative. Department of Motor Vehicles. (Oral argument, Written Record submitted May 2, 2006.)

NO ACTION

11. EDUARDO PEREZ, CASE NO. 05-0763A

Appeal from five percent reduction in salary for six months. Parole Agent I (Adult Parole). Department of Corrections and Rehabilitation. (Oral argument, Written Record submitted May 2, 2006.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

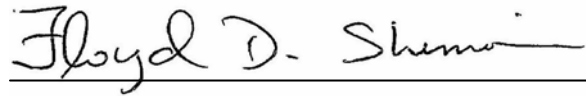
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on May 23, 2006.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board